*** THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

+ WRIT PETITION Nos.16267 and 16268 of 2007

% Dated:22.10.2007

Jakkula Venkata Swamy,
S/o.Yadagiri, and others.

…PETITIONERS

Versus

The District Collector, Ranga Reddy District,
at Lakdikapool,
Hyderabad,
and others.

…RESPONDENTS

! Counsel for the petitioners : Sri P.Srinivasa Reddy

^ Counsel for the respondents: Government Pleader for Revenue

< Gist:

> Head Note:

? Cases referred:

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.16267 AND 16268 OF 2007

DATED:22-10-2007

WP.No.16267 of 2007

BETWEEN

Jakkula Venkata Swamy,
S/o. Yadagiri, Occ: Agriculture,
R/o. Yadagarpally Village,
Keesara Mandal,
Ranga Reddy District and another.

...PETITIONERS

AND

The District Collector,
Ranga Reddy District
At Lakdikapool,
Hyderabad and others.

...RESPONDENTS

WP.No.16268 of 2007

BETWEEN

A. Sanjeeva Reddy,
S/o. Ram Reddy, Occ: Agriculture,
R/o. Yadagarpally Village,
Keesara Mandal,
Ranga Reddy District and others.

...PETITIONERS

AND

The District Collector,
Ranga Reddy District
At Lakdikapool,
Hyderabad and others.

...RESPONDENTS

COMMON ORDER:

Similar questions are raised in both the writ petitions relating to various extents of lands in the same Sy.No.225/B & C as such they are disposed of by a common order.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents 1 to 3.

3. It is the case of the petitioners in W.P.No.16267 of 2007 that the first petitioner purchased an extent of Ac.1.00 cents in Sy.No.225/B situated at Yadagarpally Village East, Keesara Mandal, Ranga Reddy District from Nunemunthala Balaiah and Nunemunthala Srinivas vide registered sale deed dated 10.09.1993 and that both of them have jointly purchased an extent of Ac.1.00 cents in Sy.No.225/B situated at Yadagarpally Village East, Keesara Mandal, Ranga Reddy District from Smt. Nunemunthala Ramulamma, Nunemunthala Balraj and Nunemunthala Srinivas vide registered sale deed dated 13.11.1995. It is stated that the said two acres of lands was an estate land and their predecessors in title had saleable right. The rights of the cultivators were not affected even after the abolition of Jagirs and the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 F. In the khasra pahani for the year 1954 – 55 the said land was described as Sarkari Poramboke land but in column No.13 the names of the cultivators i.e. their vendors are noted. Therefore, it is stated that the said land is neither assigned land nor Government land and they have been continuously cultivating the crops in the said lands. While so, the Mandal Revenue Officer, Keesara Mandal, issued a notice dated 09.08.2005 in Form – I of Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007 (for short 'the Rules') stating that the petitioners have purchased the lands in contravention of sub-section (2) of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act').

Accordingly, the petitioners were called upon to submit explanation within 15 days from the date of receipt of the said notice. It is stated that to the said notice petitioners filed explanation on 19.08.2005; but without passing any final orders under Section 4 of the Act, the Mandal Revenue Officer displayed a notice board in their lands on 03.06.2007 stating that the said lands belong to the Government. The final orders, if any passed, have not been communicated to them, therefore, the said action of the respondents in taking steps to dispossess them is illegal and arbitrary.

4. Similar contentions have been raised in W.P.No.16268 of 2007 stating that the first petitioner acquired the land in an extent of Ac.3.21 guntas in Sy.No.225/C situated at Yadagarpally Village, Keesara Mandal vide lease deed dated 02.01.997 and 10.02.1996 executed by the petitioners 2 and 4 for a period of 99 years.

The petitioners 2 to 4 are pattedars and laoni patta has been granted in their favour and that the laoni pattedars are entitled to lease their lands. It is stated that the laoni pattedars are entitled for regular patta. While so, a show cause notice dated 29.03.2005 was issued in proceedings No.B/1218/2005 stating that there is transfer of assigned lands in contravention of sub-section (2) of Section 3 of the Act and accordingly, the first petitioner was called upon to submit an explanation within 15 days. The petitioner submitted a representation dated 19.08.2005, but without passing any final orders, the third respondent displayed a notice board in his lands on 03.06.2007 stating that the said lands belong to the Government.

5. Counters have been filed in both cases stating that the land in Sy.No.225/B in an extent of Ac.1.20 guntas cents and the land in Sy.No.225/C in an extent of Ac.3.21 guntas situated at Yadagarpally Village East is Government land. The land in Sy.No.225/B has been assigned in

favour of Nunemunthala Chandraiah under laoni rules with stipulation that the said land is not alienable but only legal heirs are entitled to succeed and the said land cannot be sold or mortgaged. Insofar as lessee i.e. first petitioner in W.P.No.16268 of 2007 is concerned, it is stated that admittedly the second petitioner – Balakrishna is the assignee of the said land and the first petitioner obtained lease from the said assignee in contravention of the provisions of Section 3 of the Act. Accordingly, a show cause notice dated 09.08.2005 was issued and explanation was submitted on 19.08.2005 in the first case and a show cause notice dated 29.03.2005 was issued and explanation was submitted on 19.08.2005. Final orders have been passed on 27.10.2005 in the first case and on 06.07.2005 in the second case.

6. The explanation was considered in the first case but the final order has been passed without considering the explanation in the second case. Along with the counters final orders passed under Section 4(1)(a) of the Act have been furnished to the learned counsel for the petitioners. Even after furnishing a copy of the said final orders under Section 4(1)(a) of the Act, the petitioners have not filed appeals before the Revenue Divisional Officer under Section 4-A(1) of the Act.

7. It is stated that after passing the orders on 06.07.2005 in the second case relating to illegal lease of the land by the original assignee in favour of the first petitioner, orders were handed over to the Panchayat Secretary for serving on the petitioner and as he refused to receive the said orders, as per the orders issued by MRO, the Mandal Revenue Inspector has taken over the possession of the said land under the cover of panchanama on 28.07.2005. In the first case after passing the order on 27.10.2005, the orders were handed over to the Panchayat Secretary for serving on the petitioners and as they refused to receive the orders, as per the order issued by MRO, the Mandal Revenue Inspector, Keesara has taken over the possession of

the said land under the cover of panchanama on 14.11.2005. Thus, it is stated that the possession was already taken over in the second case on 27.10.2005 and on 14.11.2005 in the first case after passing final orders and the petitioners have not availed the remedy of appeal, as such, they are not entitled for any relief.

8. Sri V. Parabrahma Sastry, the learned counsel for the petitioners, submits that orders have not been communicated as contemplated under Rule 3 of the Rules and therefore, there is no communication of the order in the eye of law; therefore, the petitioner could not avail the alternative remedy by way of appeal before the Revenue Divisional Officer.

9. A perusal of Rule 3 of the Rules goes to show that Form – I notice has to be issued to acquire the assigned land in contravention of the provisions of sub-section (2) of Section 3 of the Act and notice shall be served by delivering a copy to him or to some adult male member of his family or at their usual place of abode or to their authorized agent or by affixing a copy thereof at some conspicuous place of their last known place of residence or on some conspicuous part of the assigned land. After expiry of fifteen days specified in the notice for submitting explanation, the authorized officer shall pass an order as he thinks fit. Once the orders are passed for contravention of the provisions of sub-sections (1) and (2) of Section 3 of the Act a cop of the said order shall be communicated to the Village Officer for taking possession of the land and thereupon the land shall be disposed of in accordance with Section 4(1)(b) of the Act. In the instant case, admittedly, a show cause notices have been issued and in the first case explanation has been submitted and in the second case explanation has not been submitted. Therefore, the final orders have been passed on 27.10.2005 and 06.07.2005 respectively and the same was communicated to the Panchayat Secretary and the land has been resumed under the cover of panchanama on

14.11.2005 and 21.10.2005 respectively. In the instant case it is stated that the final orders have been communicated to the Village Officer, he was requested to serve the copies on the petitioners, who refused to receive the same. However, the Rule 3 of the 2007 Rules has no application to the instant case as the orders have been passed much prior to the new Rules came into force. Though no specific provision is contemplated as to how the final orders have to be communicated,

a procedure has been contemplated to communicate the final orders to the Village Officer. The intention of communicating the orders to the Village Officer is only to serve the same to the persons and in the instant case, it cannot be said that no orders have been passed and communicated in accordance with law.

10. However, insofar as the merits of the case are concerned, admittedly the said lands are assigned lands. In the first case the petitioners have purchased the assigned lands from the assignee and in the second case the assignees have leased out the said lands for a period of 99 year in contravention of sub-section (2) of Section 3 of the Act. Therefore, I do not see any merits in any of the contentions advanced by the learned counsel for the petitioners.

The writ petitions are accordingly dismissed. However, the petitioners are permitted to file appeals before the Revenue Divisional Officer under Section 4-A(1) of the Act within ten days from the date of receipt of a copy of this order. There shall be no order as to costs.

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V. ESWARAIAH, J

October 22, 2007
DSK